

// A special meeting of the Council of the City of Lynchburg, recessed from September 27, was held on the 11th day of October, 2005, at 4:00 P.M., E. C. Glass High School, Carl B. Hutcherson, Jr., President, presiding. The purpose of the meeting was to tour the newly renovated E. C. Glass High School and to have a joint meeting with the School Board. The following Members were present:

Present: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Absent:

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// Following a tour of the newly renovated E. C. Glass High School, Council and School Board members convened in the School's Library. Mayor Carl Hutcherson and Schools Chair Julie Doyle welcomed everyone to the joint meeting.

// Parks and Recreation Director Kay Frazier presented an overview regarding a recently completed study of Lynchburg's athletic fields, stating that the purpose of the presentation was to provide information, stimulate dialogue, and identify additional information or questions to explore, including the next steps to be taken with regard to the athletic fields. Ms. Frazier stated that there are not enough athletic fields in the City to meet current as well as future needs and that staff would like to explore the possibility of adding additional fields in the Blackwater Creek Athletic area. Ms. Frazier also identified several concerns regarding the condition of the football side of the City Stadium, and identified several options to explore including the use of artificial turf on the football field. Ms. Frazier went on to say that a recommendation would be for a committee to be formed to create a ten year plan for field upkeep and maintenance, and that both the City and Schools share field maintenance equipment, establish common field standards, policies and practices. Ms. Frazier also requested that in the immediate future that no one be allowed to use the City Stadium football field in June, July and August so that the field has time to recover, in addition to limiting the amount of varsity team time on the field and completely relocating all junior varsity and ninth grade team competitions. Following the presentation, several Council and School Board Members indicated that they were eager to address the problems outlined in the study and agreed that both groups would meet again to determine what course of action to take and what options are available, including seeking community feedback regarding the recommendations contained in the study.

// Chair Julie Doyle presented a brief overview regarding the top six issues identified at the School Board's recent retreat, i.e., alternative education, closing the achievement gaps, funding challenges, middle school reform, teacher recruitment, retention, and development, and communications and public relations.

// Schools Superintendent Dr. Paul McKendrick presented a brief overview regarding information contained in a October 4 letter to City Manager Kimball Payne concerning the Schools use of its projected Fund Balance of \$2.4 million. Dr. McKendrick explained that the School Board has engaged in preliminary discussions regarding the use of these funds, and as per the 1993 agreement, the expenditures would be for one-time purchases.

// The meeting was adjourned at 7:00 p.m.

// A regular meeting of the Council of the City of Lynchburg was held on the 11th day of October, 2005, at 7:30 P.M. in the Council Chamber, City Hall, Carl B. Hutcherson, Jr., President, presiding. Vice Mayor Foster gave the Invocation. The Pledge of Allegiance was led by Mayor Hutcherson. The following Members were present:

Present: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Absent: 0

// Copies of the minutes of the September 27, 2005 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Finance - Bonds, Resolution #R-05-123 amending the FY 2006 School Capital Projects Fund Budget and appropriating \$18,500 for estimated bond issuance costs reimbursable from the bond proceeds, laid over from the September 27, 2005 meeting, was again presented and read, and on motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Fire - General, City Council Report #3 was considered. On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-124, as presented, amending the FY 2006 City/Federal/State Aid Projects Fund budget and appropriating \$40,000, with \$20,000 reimbursement, to upgrade four (4) Zoll "M" Series bi-phasic manual monitor/defibrillators:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Fire - General, City Council Report #4 was considered. On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-125, as presented, amending the FY 2006 City/Federal/State Aid Projects Fund budget and appropriating \$47,872, fully reimbursable, to assist in the purchase of safety equipment and supplies for the Fire and EMS Department:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Police - General, City Council Report #5 was considered. On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-126, as presented, amending the FY 2006

City/Federal/State Aid Fund and appropriating \$78,931, fully reimbursable, to complete the Digital In-Car Camera program of the Lynchburg Police Department:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Commonwealth Attorney, City Council Report #6 was considered. On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-127, as presented, amending the FY 2006 City/Federal/State Aid Fund budget and appropriating \$108,994, with resources of \$91,510 from the United States Department of Justice, for continuation of the Community Prosecution Program:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Community Planning - General, City Council Report #7 was considered. On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-05-128, as presented, dedicating a certain area located on the west side of Bon Ton Road as a right-of-way for the proposed public street to be named "Amaya Drive":

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Community Planning - General, City Council Report #8 was considered. On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-05-129, as presented, dedicating a certain area located on the east side of Mountain Laurel Drive as a right-of-way for the proposed public street to be named "Persimmon Way":

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Community Planning - General, a public hearing was held regarding City Council Report #9 regarding amending the FY 2006 City/Federal/State Aid Fund Budget and appropriating \$666,222, fully reimbursable, for the Lead-based Paint Hazard Control Grant Program. Administrative and Grants Coordinator Melva Walker provided a brief overview regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Vice Mayor Foster, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-130, as presented, amending the FY 2006 City/Federal/State Aid Fund Budget and appropriating \$666,222, fully reimbursable, for the Lead-based Paint Hazard Control Grant Program:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Property, a public hearing was held regarding City Council Report #10 regarding adoption of a Resolution agreeing to the repeal of the reversion clause in a 1957 deed transferring property to the Virginia Jaycees in exchange for the conveyance of a portion of the property to the City for

a public crosswalk. City Manager Kimball Payne provided a brief overview regarding the request, explaining that a public crosswalk is needed to provide a safer path from a nearby parking lot to the baseball fields in Miller Park. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to Council questioning, Mr. Payne stated that the Jaycees did pay fair market value to the City for the property in addition to paying for the construction of the building that is located on the site. On motion of Council Member Helgeson, seconded by Council Member Dodson, Council by the following recorded vote adopted Resolution #R-05-131, as presented, repealing of the reversion clause in a 1957 deed transferring property to the Virginia Jaycees in exchange for the conveyance of a portion of the property to the City for a public crosswalk:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Public Works - General, a public hearing was held regarding City Council Report #11 regarding a proposal to relinquish the City's right of first refusal to purchase the Galleria property located at 915 Main Street as provided in the March 28, 1984, Contract of Sale between the City and J. E. Jamerson & Sons, Inc. City Manager Kimball Payne provided a brief overview regarding the request, stating that the Galleria entry to City Hall will be preserved. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to Council questioning, City Attorney Walter Erwin confirmed that the City will still be able to purchase and reacquire the premises and all improvements for \$75.00 anytime after the expiration of 75 years from the date of recordation of the deed. On motion of Council Member Dodson, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-05-132, as presented, waiving the City's rights granted under paragraph 5(f) of a contract of sale between the City and J. E. Jamerson & Sons, Inc., dated March 28, 1984, whereby the City was granted a right of first refusal should the Jamersons wish to accept an offer from a third party to purchase the property located at 915 Main Street:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Public Works - General, a public hearing was held regarding City Council Report #12 regarding a proposal to sell the real property located at 1117, 1201, 1215, and 1221 Jefferson Street to Invest Lynchburg, LLC, for the sum of \$43,900 and a commitment to construct substantial improvements on the property within three years from the date of its purchase. City Manager Kimball Payne provided a brief overview regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Vice Mayor Foster, seconded by Council Member Helgeson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-133, as presented, agreeing to sell the real property located at 1117, 1201, 1215, and 1221 Jefferson Street to Invest Lynchburg, LLC, for the sum of \$43,900 and a commitment to construct substantial improvements on the property within three years from the date of its purchase:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Public Works – Street Vacation, a public hearing was held regarding City Council Report #13 regarding adopting an Ordinance to vacate a portion of 6th Street between Taylor and Floyd Streets, a portion of Wise Street between 5th and 6th Streets, and an alleyway located at 6th and Wise Streets. Utilities Director Tim Mitchell provided an overview regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #O-05-134, as presented, vacating a portion of 6th Street between Taylor and Floyd Streets, a portion of Wise Street between 5th and 6th Streets, and an alleyway located at 6th and Wise Streets:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Community Planning - General, a public hearing was held regarding City Council Report #14 regarding approving an amendment to the City's Comprehensive Plan 2002–2020 to include the Midtown Area Plan dated August 29, 2005. City Planner Tom Martin provided an overview regarding the request and outlined six implementation steps to be taken, i.e., (1) adopt the Midtown Plan as part of the Comprehensive Plan, (2) promote the Midtown Area Plan, (3) selectively rezone property in the Midtown area, (4) work with the Virginia Department of Transportation (VDOT) to finalize design of Midtown (Crosstown) Connector, (5) amend Midtown zoning and create a form-based code, and (6) appoint a Development Coordinator. Community Planning Director Rachel Flynn presented revised language for page 5.8 of the Midtown Plan in response to input from the Center for Independent Living. Ms. Flynn stated that staff is requesting that the revised language for page 5.8 be incorporated into the Midtown Area Plan. Dr. Kenneth Garren, President of Lynchburg College, Shanda Rowe, Chair of the Citizens Monitoring Committee, Laura Dupuy, Executive Director, Lynchburg Neighborhood Development Foundation, Hal Craddock, President, Craddock Cunningham Architectural Partners, along with Joan MacCallum and Gary Harvey spoke in support to the request and encouraged City Council to incorporate the Midtown Area Plan as part of the Comprehensive Plan. Barbara Salisbury, Chair, ADA Advisory Committee for the local transit company, spoke in support of incorporating the revised language for page 5.8 into the Midtown Plan. Maxine Feinman spoke in support of Walgreens, stating that a 24 hour pharmacy was needed in the area. Mark Peake expressed two concerns regarding the Midtown Plan, i.e., that the reduction from a four-lane highway to a two or three-lane road that is pedestrian friendly would result in a loss of federal funding, and that the adoption of form-based codes would create another level of bureaucracy for developers. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to Council questioning, City Manager Kimball Payne explained that staff is still trying to determine how much federal funding has been designated for the project and what impact, if any, the reduction in the number of lanes would have on the amount of federal funding to be received. Several Council Members commented that they would support the Midtown Plan because it is a roadmap for development in the area and argued that it is not a concrete, inflexible document that would hinder development. Council Member Helgeson stated that he could not support the Midtown Plan

in that he did not believe that the Plan was realistic. Following discussion, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-05-135, as presented, approving an amendment to the City's Comprehensive Plan 2002 - 2020 to include the Midtown Area Plan dated August 29, 2005, with the inclusion of the revised language for page 5.8:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson

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Noes: Helgeson

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// In the matter of Community Planning – Zoning Amendments, City Council Report #15 regarding the petition of Laird Lynchburg, LLC, to amend the Future Land Use Map for approximately 2.2 acres in the 2400 Block of Langhorne Road from Medium Density Residential to Community Commercial and to rezone said property from R-4, Multi-Family Residential District, to B-3, Community Business District (Conditional) to allow the construction of a Walgreens pharmacy was again considered. City Manager Kimball Payne explained that this item has been before City Council on several occasions and that staff is available to respond to questions. Council Member Helgeson asked that City Council move forward and approve the amendment to the Comprehensive Plan in addition to the rezoning request from Laird Lynchburg, LLC, to allow the construction of a Walgreens pharmacy, citing the following reasons, i.e., the proposed site is located in a business corridor, a 24 hour pharmacy would be a good addition to the area, the new store would bring needed revenue and jobs to the City in addition to increasing the City's tax base. In response to Council Member Dodson's question, Ms. Robin Askew, of Laird Development, explained that other sites along Langhorne Road had been considered and deemed not suitable for development for various reasons. Council Member Dodson expressed concern that Walgreens would relocate to an adjoining county if the rezoning request is denied. Upon questioning by Vice Mayor Foster, Ms. Askew stated that Walgreens has certain standards and that those standards would not be met if the store is moved closer to the road in order to conform with the Traditional Neighborhood Development principles. Council Member Johnson stated that he could support the petition if the store is moved closer to the road, and questioned if Walgreens would be willing to move the store closer to the road if the trees could be removed. Ms. Askew explained that Walgreens corporate has refused to move the store closer to the road because the engineers have determined that Walgreens standards cannot be met if the store is moved closer to the road. Upon questioning by Council Member Seiffert, City Planner Tom Martin stated that City Council is being asked to consider the September 21, 2004, site plan and that the ordinance needed to be changed to reflect that change. Council Member Seiffert stated that he had no problem with changing the land use map, but did have a problem with the rezoning if the petitioner was not agreeable to adhering to the Traditional Neighborhood Development standards. Council Member Gillette stated that he has not been provided sufficient reasoning to justify the rezoning of the property since it does not comply with the Traditional Neighborhood Development standards, and that a "no" vote does not mean that the City is against business. Dr. Gillette went on to say that this request is not just about business but about what we want the character of that stretch of Langhorne Road to look like. Mayor

Hutcherson commented that he would support the request since there are similar structures along Langhorne Road that are set back from the road, and that Walgreens would provide new jobs and provide a 24 hour pharmacy to the citizens in this area. Following discussion, and on motion of Council Member Helgeson, seconded by Council Member Dodson, Council by the following recorded vote adopted Ordinance #0-05-136, as presented, amending the Future Land Use Map for approximately 2.2 acres in the 2400 Block of Langhorne Road from Medium Density Residential to Community Commercial:

Ayes: Dodson, Helgeson, Johnson, Seiffert, Hutcherson 5

Noes: Foster, Gillette 2

Council Member Helgeson made a motion, seconded by Council Member Dodson, to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District, to B-3, Community Business District (Conditional) to allow the construction of a pharmacy, and the motion was defeated by the following vote:

Ayes: Dodson, Helgeson, Hutcherson 3

Noes: Foster, Gillette, Seiffert 3

Abstention: Johnson 1

// In the matter of City Council, City Council Report #16 was considered. On motion of Vice Mayor Foster, seconded by Council Member Seiffert, Council by the following recorded vote adopted Resolution #R-05-137, as presented, expressing support of Lynchburg Grows in the development of an urban farm:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Airport - General, City Council Report #17 was considered. On motion of Council Member Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-138, as presented, amending the Airport Projects Grant Fund budget and appropriating \$454,219, with resources of \$137,970 from State Aviation Entitlement Funds and \$316,249 for increased borrowing, for the Airport T-Hangar/Jet Pod Project:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// Council Member Helgeson inquired of the City Attorney regarding whether or not a Council Member must state a reason for abstaining from voting on an issue. City Attorney Walter Erwin explained that Section 2-22 of the City Code provides that Council Members "shall vote upon all questions presented for decision unless excused by the Council; provided, that no member shall be permitted to vote upon any matter where such vote is prohibited by the Virginia Conflict of Interest Act. Mr. Erwin went on to say that the Virginia Conflict of Interest Act provides that when a public official has a "public interest" in a transaction that is being considered by his or her governing body, the public official must declare such interest and "disqualify himself from participating in the transaction." Mr. Erwin also noted that the City Code does not specify how a Council Member may be "excused" from voting on a particular matter, and the past practice has simply been for a Council Member to state that he or she plans to abstain from

voting on a particular issue and that if any of the other members of Council object to the Council Member abstaining, an objection can be raised. Mr. Erwin stated that if an objection is raised, then City Council would vote on whether or not it was appropriate for the Council Member in question to abstain from voting, but that he does not recall any instance where a Council Member's decision to abstain from voting has actually been challenged by and voted on by the other members of Council and that Council Members have traditionally respected another member's decision to abstain from voting. Mr. Erwin also explained that if Council wishes, it could adopt a formal procedure to be followed on those occasions when a Council Member wishes to abstain from voting on a matter.

// In the matter of Community Planning - General, City Manager Kimball Payne provided a brief history regarding the Bluffwalk Center project, stating that Mr. Hal Craddock has informed the City that an additional \$910,000 is needed to close a funding gap created by increased construction costs due to Hurricane Katrina. Mr. Payne presented a tentative plan to fund the gap, i.e., \$150,000 in Contractor savings, \$200,000 loan from the Industrial Development Authority (IDA), \$250,000 loan from the Lynchburg Area Development Corporation (LADC), and \$310,000 loan from the City through the IDA. Mr. Payne went on to say that the source of funding for the City's loan could be the anticipated refund of \$586,000 from the Blue Ridge Regional Jail Authority. Mr. Payne explained that since both the IDA and LADC will need to seek formal approval from their respective boards, that he is asking that City Council approve on first reading a maximum appropriation of \$910,000 from the undesignated General Fund balance and authorize a public hearing, if needed, on a budget amendment for the October 25 meeting with the second reading to follow. Mr. Payne explained that there is a deadline of November 15 to close on the project in order for the project to retain its tax credits. Mr. Payne went on to say that he is confident that the amount that will be needed from the City will be a \$310,000 loan through the IDA. Mr. Hal Craddock was present and provided to City Council a summary of expenses for the project since May 1997. Council Member Helgeson said that he was glad to see a breakdown of how the money has been spent on the project to-date, but expressed concern regarding allocating additional funds to the project. Mr. Helgeson also stated that he would like to see an audit of the project. Several Council Members commented regarding the importance of the project to Downtown revitalization, and expressed concern that the City would lose the \$3.2 million in Community Development Block Grant funds if the project failed. Council Member Gillette stated that he would like to see a source of funding for any amount that is appropriated for the project. Following discussion, and on motion of Council Member Johnson, seconded by Vice Mayor Foster, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-139 amending the FY2006 General Fund Budget and appropriating up to \$586,000, with resources from an anticipated refund of \$586,000 from the Blue Ridge Regional Jail Authority, for the Bluffwalk Center project:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson

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Noes: Helgeson

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// In the matter of Budget, Commissioner of the Revenue Mitch Nuckles stated that during its FY 2006 Budget deliberations, Council decided to increase the annual income limits for applicants but not to raise the amount of funding available to finance the Tax Relief for the Elderly and Permanently Disabled program. Mr. Nuckles explained that it was understood that both actions, in light of the increases in real estate assessed values, would result in some individuals receiving less in tax relief than they had in the previous year. Mr. Nuckles went on to say that once applications for the program had been compiled staff prepared a report which was shared with the Finance Committee showing that while 98% of applicants received 100% tax relief in FY 2005, only 40% of applicants would receive 100% tax relief in FY 2006. Mr. Nuckles informed that the Finance Committee asked that the report be presented to the full Council along with options for providing some increased funding to provide additional relief. Council Member Helgeson expressed support for a plan that would allocate more relief for those individuals with the lowest income disregarding net worth. Some Council Members commented that when action was taken to increase the annual income limits for applicants but not to raise the amount of funding it was understood that some individuals would receive less in tax relief than they had in the previous year. Following discussion, Council Member Dodson made a motion, seconded by Council Member Johnson, to appropriate \$72,278 in supplemental funding to the Tax Relief for the Elderly and Permanently Disabled Program in order to continue the current practice to provide the same increase in program funding consistent with the overall percentage increase in residential property as a result of the biennial reassessment. Council Member Gillette commented that changing the eligibility level from \$27,000 to \$30,000 cost the program \$17,000, and made a substitute motion, seconded by Vice Mayor Foster, to appropriate \$55,278 in supplemental funding to the Tax Relief for the Elderly and Permanently Disabled Program with the understanding that those funds would be allocated to those applicants with the lowest income disregarding net worth. The vote was called on the substitute motion, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-140 appropriating \$55,278 in supplemental funding to the Tax Relief for the Elderly and Permanently Disabled Program with the understanding that those funds would be allocated to those applicants with the lowest income disregarding net worth:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Hutcherson

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Noes: Seiffert

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// On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions and consultation with legal counsel and staff members

regarding specific legal matters relating to the proposed Compson development project pursuant to Section 2.2-3711(A)(1) and (7), respectively, of the Code of Virginia, 1950, as amended:

Ayes: Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: Dodson 1

// The meeting was re-opened to the public.

// Council Member Gillette made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Seiffert, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Johnson, Council by the following recorded vote appointed Melany Pearl to fill an unexpired term on the Dr. Martin Luther King, Jr./Lynchburg Community Council ending June 30, 2006:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

On nomination of Council Member Johnson, Council by the following recorded vote re-appointed Gerry Harter to serve on the Transit Company Board for a term to expire October 31, 2008:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

On nomination of Council Member Johnson, Council by the following recorded vote appointed Geneva Rose and Barbara Salisbury to serve on the Transit Company Board for terms to expire October 31, 2008:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

On nomination of Council Member Johnson, Council by the following recorded vote re-appointed Keith Wright to serve on the Disability Services Board for a term to expire October 31, 2008:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In an item not on the agenda, and on motion of Council Member Johnson, seconded by Vice Mayor Foster, Council by the following recorded vote adopted Resolution #R-05-141 approving a Cooperation Agreement between the City of Lynchburg and the County of Campbell that would address concerns that were unresolved when City Council failed to approve a rezoning request from Compson Development for development of property on Wards Ferry Road, and authorizing the City Manager to execute said Agreement on behalf of the City:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert 5

Noes: Helgeson 1

Abstention: Hutcherson 1

// The meeting was adjourned at 12:36 A.M. on October 12, 2005.

Clerk of Council